

IC 35-37-6

Chapter 6. Privileged Communications and Victim Counseling

IC 35-37-6-1

"Confidential communication" defined

Sec. 1. As used in this chapter, "confidential communication" means any information:

- (1) exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process; and
- (2) disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-2

"Covered act" defined

Sec. 2. As used in this chapter, "covered act" means any of the following offenses or an act that, if committed by a person less than eighteen (18) years of age, would be any of the following offenses if committed by an adult:

- (1) A sex crime under IC 35-42-4.
- (2) A battery against:
 - (A) a child under IC 35-42-2-1(2)(B);
 - (B) a disabled person under IC 35-42-2-1(2)(C);
 - (C) an endangered adult under IC 35-42-2-1(2)(F); or
 - (D) a spouse under IC 35-42-2-1.
- (3) Neglect of a dependent under IC 35-46-1-4.
- (4) Incest (IC 35-46-1-3).

As added by P.L.136-1987, SEC.5. Amended by P.L.2-1997, SEC.74; P.L.2-1998, SEC.80.

IC 35-37-6-3

"Victim" defined

Sec. 3. As used in this chapter, "victim" means an individual:

- (1) against whom a covered act is committed; or
- (2) other than an individual who is accused of committing a covered act, who is the parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew of the individual described in subdivision (1).

As added by P.L.136-1987, SEC.5.

IC 35-37-6-4

"Victim counseling" defined

Sec. 4. As used in this chapter, "victim counseling" means diagnosis and treatment to alleviate the adverse emotional or psychological impact of a covered act on the victim.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-5

"Victim counseling center" defined

Sec. 5. As used in this chapter, "victim counseling center" means:

- (1) a public agency;
- (2) a unit of a public agency; or
- (3) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

that is not affiliated with a law enforcement agency, and has, as one (1) of its primary purposes, the treatment of victims for emotional and psychological conditions that occur as a result of covered acts.
As added by P.L.136-1987, SEC.5.

IC 35-37-6-6

"Victim counselor" defined

Sec. 6. As used in this chapter, "victim counselor" means an individual who:

- (1) is an employee or supervised volunteer of a victim counseling center; and
- (2) provides treatment to a victim for an emotional or psychological condition incurred by the victim as a result of a covered act.

The term does not include a law enforcement officer or the employee or agent of a law enforcement officer.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-7

Application of chapter

Sec. 7. This chapter does not limit any other testimonial privilege available to a person.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-8

Duty of victim counselor to report

Sec. 8. This chapter does not relieve a victim counselor of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

As added by P.L.136-1987, SEC.5. Amended by P.L.3-1989, SEC.222; P.L.2-1992, SEC.875; P.L.1-1997, SEC.144.

IC 35-37-6-9

Confidential communications; compelling testimony; records; temporary emergency shelters

Sec. 9. (a) The following persons may not be compelled to give testimony or to produce records concerning confidential communications in any judicial, legislative, or administrative proceeding:

- (1) A victim.
- (2) A victim counselor, unless the victim consents to the disclosure.
- (3) An unemancipated child less than eighteen (18) years of age or an incapacitated victim, unless a custodial parent, custodian,

guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure.

(b) A victim counselor or a victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-10

Waiver by victim of protections of chapter

Sec. 10. (a) A victim does not waive the protections afforded by this chapter by testifying in court about an offense. However, if the victim partially discloses the contents of a confidential communication in the course of testifying, either party may request the court to rule that justice requires the protections of this chapter to be waived, to the extent they apply to that portion of the communication.

(b) A waiver under this section applies only to the extent necessary to require any witness to respond to questions concerning the confidential communication that are relevant to the facts and circumstances of the case.

As added by P.L.136-1987, SEC.5.

IC 35-37-6-11

Waiver by victim counselor of protections of chapter; disclosure of confidential information

Sec. 11. A victim counselor may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim counselor or victim counseling center in which the victim counselor was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the counseling relationship;

the victim counselor may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

As added by P.L.136-1987, SEC.5.